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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,919	03/10/2004	Jeffrey Lewis Brandt	1033-LB1049	3346
60533	7590	10/12/2006	EXAMINER	
TOLER SCHAFFER, LLP 5000 PLAZA ON THE LAKES SUITE 265 AUSTIN, TX 78746			FRANKLIN, JAMARA ALZAIDA	
			ART UNIT	PAPER NUMBER
			2876	

DATE MAILED: 10/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/797,919

Applicant(s)

BRANDT ET AL.

Examiner

Jamara A. Franklin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 April 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. In view of the appeal brief filed on April 10, 2006, PROSECUTION IS HEREBY REOPENED. New grounds of rejection are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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3. Claims 1-3, 9-13, 19, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Walker et al. (US 5,999,596) (hereinafter referred to as 'Walker').

Walker teaches a method and system comprising:

providing a notification message to a payment card holder of an attempted transaction using a payment card (col. 9, lines 48-53); and

providing multiple options for the payment card holder to decline authorization of the attempted transaction (col. 10, lines 19-54);

the method and system wherein the multiple options comprises first option (i.e. depressing "3" on a keypad, communicating with the user of the card, and based on the communication depressing "2" to decline the transaction) for the payment card holder to decline authorization of an undesirable but non-fraudulent transaction; and a second option for the payment card holder to decline authorization of a fraudulent transaction (depressing "2" on the keypad);

the method and system further comprising:

receiving a selection made by the payment card holder of the first option; and based on the selection, providing a message involved in the attempted transaction to decline the attempted transaction and to return the payment card to an individual attempting the transaction;

the method and system further comprising:

providing an option for the payment card holder to authorize the transaction; and

the method and system wherein the notification message indicates a transaction amount, a merchant name, and at least part of a number of the payment card (col. 10, lines 4-8).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 4 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker in view of Slater et al. (US 4,114,027) (hereinafter referred to as 'Slater').

The teachings of Walker have been discussed above.

Walker lacks the teaching of withholding the payment card from an individual attempting the transaction.

Slater teaches a method and system wherein a payment card is withheld from an individual attempting a transaction (col. 12, lines 50-63).

One of ordinary skill in the art would have readily recognized that providing the Walker invention with the withholding of the payment card would have been beneficial for ensuring that

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the card is no longer active within a business environment thereby protecting vendors and merchandise against future fraud. Therefore, it would have been obvious, at the time the invention was made, to modify the teachings of Walker with the aforementioned teaching of Slater.

7. Claims 5, 15, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker in view of Gopinathan et al. (US 5,819,226) (hereinafter referred to as 'Gopinathan').

The teachings of Walker have been discussed above.

Walker lacks the teaching of locking an account.

Gopinathan teaches a method and system comprising locking an account (col. 4, lines 3-7).

One of ordinary skill in the art would have readily recognized that providing the Walker invention with the locking of an account would have been beneficial for ensuring the account may not be manipulated in a manner that would financially hurt an actual cardholder in the event that the actual cardholder is unaware of the fraud. Therefore, it would have been obvious, at the time the invention was made, to modify the teachings of Walker with the aforementioned teaching of Gopinathan.

8. Claims 6, 7, 16, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker in view of Cheechio (US 6,052,675).

The teachings of Walker have been discussed above.

Walker lacks the teaching of automatically reporting the fraudulent transaction to a law

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enforcement authority and the teaching of automatically reporting the fraudulent transaction to a credit reporting agency (col. 1, lines 26-30); and

Cheechio teaches a method and system of automatically reporting a fraudulent transaction to a law enforcement authority and automatically reporting a fraudulent transaction to a credit reporting agency (col. 1, lines 26-30).

One of ordinary skill in the art would have readily recognized that providing the Walker invention with the method of reporting the fraudulent transaction would have been beneficial for allowing a record to be kept of the fraud and thereby possibly enabling the faculty to take action toward the security of the actual cardholder. Therefore, it would have been obvious, at the time the invention was made, to modify the teachings Walker with the aforementioned teaching of Cheechio.

9. Claims 8 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker in view of Taylor (US 2003/0182214).

The teachings of Walker have been discussed above.

Walker lacks the teaching of a reason code.

Taylor teaches a method and system of sending a reason code involved in an attempted transaction (paragraph 44).

One of ordinary skill in the art would have readily recognized that providing the Walker invention with a reason code would have been beneficial for ensuring that the exact reason for the decline is indicated, thereby allowing the merchant react accordingly for the best interest of

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the card holder. Therefore, it would have been obvious, at the time the invention was made, to modify the teachings of Walker with the aforementioned teaching of Taylor.

10. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Walker in view of Tubinis (US 2003/0014367).

The teachings of Walker have been discussed above.

Walker lacks the teaching of a short messaging service.

Tubinis teaches a system wherein a purchase limit is increased based on a short message service (SMS) received from a payment card holder.

One of ordinary skill in the art would have readily recognized that providing the Walker invention with a short messaging service for increasing a purchasing limit would have been beneficial for ensuring that a purchasing limit is adequate enough for a purchase so as to prevent the cardholder from not being able to attain a desired product or service. Therefore, it would have been obvious at the time the invention was made, to modify the teachings of Walker with the aforementioned teaching of Tubinis.

Response to Arguments

11. Applicant's arguments with respect to claims 1-22 have been considered but are moot in view of the new ground(s) of rejection.

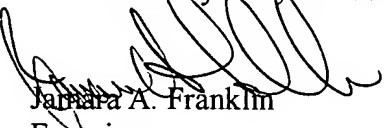
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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamara A. Franklin whose telephone number is (571) 272-2389. The examiner can normally be reached on Monday through Friday 8:00am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (571) 272-2398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Jamara A. Franklin
Examiner
Art Unit 2876

JAF
October 2, 2006


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